

1 PHILIP M. MILLER (SBN 87877)
KRISTEN McCULLOCH (SBN 177558)
2 SALTZMAN & JOHNSON LAW CORPORATION
44 Montgomery Street, Suite 2110
3 San Francisco, California 94104
(415) 882-7900
4 (415) 882-9287 – Facsimile
pmiller@sjlawcorp.com
5 kmcculloch@sjlawcorp.com

6 Attorneys for Plaintiffs

7 AREVA D. MARTIN (SBN 131397)
ROSA KWONG (SBN 129811)
8 MARTIN & MARTIN, LLP
35030 Wilshire Boulevard, Suite 1650
9 Los Angeles, CA 90010
(213) 388-4747
10 (213) 385-5666 – Facsimile
amrtin@martin-martin.net
11 rk Wong@martin-martin.net

12 Attorneys for Defendant

13
14 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
15 (SAN FRANCISCO DIVISION)

16 CALIFORNIA SERVICE EMPLOYEES
HEALTH & WELFARE TRUST FUND,
17 MIKE GARCIA, Trustee, CHARLES
GILCHRIST, Trustee, RAYMOND C. NANN,
18 Trustee, LARRY T. SMITH, Trustee,

19 Plaintiffs,

20 vs.

21 A & B MAINTENANCE, INC., a California
corporation,

22 Defendant.
23

Case No.: C 07-04945 TEH

**UPDATE TO THE JOINT CASE
MANAGEMENT CONFERENCE
STATEMENT**

Date: June 30, 2008
Time: 1:30 p.m.
Courtroom: 12, 19th Floor
Hon. Thelton E. Henderson

24
25 Plaintiffs, the California Service Employees Health & Welfare Trust Fund and its Trustees,
26 jointly with Defendant, A & B Maintenance, Inc., in the above-entitled action submit this Update
27 to the Joint Case Management Statement.
28

UPDATE:

1. **Plaintiff's Statement:** On May 12, 2008, counsel for the both parties appeared before the Court for the initial case management conference. At that hearing, counsel for Defendant requested that the Court put over the hearing. Counsel for Defendant stated that the parties had engaged in settlement discussions and further represented that the day before the hearing Counsel had been informed that recently prepared financial statements and other financial information had become available which Defendant intended to provide to Plaintiffs to foster settlement discussions. Defendant requested the Court to put over the initial case management conference so as to allow Defendant the time to provide Plaintiffs with these recently prepared financial statements and other financial information for settlement purposes. However, Plaintiffs were not provided any information until June 24, 2008 at 4:19 p.m. at which time counsel for Defendant forwarded to Plaintiffs, via e-mail, a copy of Defendant's Profit & Loss Statement for the period of January 1, 2007 through December 2007 and Defendant's Federal Income Tax Return, Form 1120S, for the year ended December 31, 2007. Plaintiffs had not had an opportunity to review the information provided as of the filing of this Update to the Joint Case Management Statement.

2. **Defendant's Statement:** On June 24, 2008, Defendant forwarded to Plaintiff, via e-mail, a copy of its Profit & Loss Statement for the period of January through December 2007 and Defendant's 2007 IRS Tax Return. Because of delays in finalizing and providing Plaintiff with these documents, settlement negotiations were suspended. Defendant anticipates negotiations to resume as soon as Plaintiff has had an opportunity to review the documents and determine that they are reliable indications of Defendant's financial status.

DISCLOSURES

3. The parties certify that they have made the following disclosures:

- a. Plaintiffs made their required initial disclosures on June 3, 2008.
- b. Defendant made their required initial disclosures on June 20, 2008.

///

///

UPDATED PROPOSED SCHEDULE

4. The parties propose the following case scheduling order:

- | | | |
|------|---|----------|
| (1) | Defendant's Motion for Transfer to Central District to be filed by | 9/2/08 |
| (2) | Opposition to Motion to Transfer filed by | 9/17/08 |
| (3) | Reply to Opposition in Motion to Transfer by | 9/24/08 |
| (4) | Motion to Transfer to Central District to be heard by | 10/08/08 |
| (5) | ADR session to be held by: ¹ | 12/05/08 |
| (6) | Dispositive motion to be filed by: | 1/26/09 |
| (7) | Opposition to any dispositive motion to be filed by: | 2/09/09 |
| (8) | Reply to any opposition to any dispositive motion to be filed by: | 2/16/09 |
| (9) | All dispositive motions to be heard on or before: | 3/02/09 |
| (10) | Any amendment of the pleadings to be filed by: | 4/10/09 |
| (11) | Disclosure of identities and reports of expert witnesses: | 5/1/09 |
| (12) | Rebuttal expert disclosure | 6/1/09 |
| (13) | Last day for hand-serving/filing motions (except for motions in limine) | 6/1/09 |
| (14) | Completion of Fact Discovery: | 6/09/09 |
| (15) | Completion of Expert Discovery: | 6/23/09 |
| (16) | Last day to hear motions (except for motions in limine) | 7/6/09 |
| (17) | Last day to hand-serve motions in limine | 7/13/09 |
| (18) | Pretrial Conference | 7/17/09 |
| (19) | Trial to begin on: | 8/17/09 |

///

///

///

///

¹ Defendant proposes advancing the ADR due date to 8/15/08 so that settlement negotiations will precede litigation.

1 CASE MANAGEMENT ORDER

2 The Case Management Statement and Proposed Order is hereby adopted by the Court as
 3 the Case Management Order for the case and the parties are ordered to comply with this Order. In
 4 addition the Court orders as set forth in the Update to the Case Management Statement:

- | | | | |
|----|--|----------|-------------|
| 5 | (1) Defendant's Motion for Transfer to Central District to | 9/02/08 | ___/___/___ |
| 6 | be filed by | | |
| 7 | (2) Opposition to Motion to Transfer filed by | 9/17/08 | ___/___/___ |
| 8 | (3) Reply to Opposition in Motion to Transfer by | 9/24/08 | ___/___/___ |
| 9 | (4) Motion to Transfer to Central District to be heard by | 10/08/08 | ___/___/___ |
| 10 | (5) ADR session to be held by: | 12/05/08 | ___/___/___ |
| 11 | (6) Dispositive motion to be filed by: | 1/26/09 | ___/___/___ |
| 12 | (7) Opposition to any dispositive motion to be filed by: | 2/09/09 | ___/___/___ |
| 13 | (8) Reply to any opposition to any dispositive motion to be | 2/16/09 | ___/___/___ |
| 14 | filed by: | | |
| 15 | (9) All dispositive motions to be heard on or before: | 3/02/09 | ___/___/___ |
| 16 | (10) Any amendment of the pleadings to be filed by: | 4/10/09 | ___/___/___ |
| 17 | (11) Disclosure of identities and reports of expert witnesses: | 5/01/09 | ___/___/___ |
| 18 | (12) Rebuttal expert disclosure | 6/1/09 | ___/___/___ |
| 19 | (13) Last day for hand-serving/filing motions (except for | 6/1/09 | ___/___/___ |
| 20 | motions in limine) | | |
| 21 | (14) Completion of Fact Discovery: | 6/09/09 | ___/___/___ |
| 22 | (15) Completion of Expert Discovery: | 6/23/08 | ___/___/___ |
| 23 | (16) Last day to hear motions (except for motions in limine) | 7/6/09 | ___/___/___ |
| 24 | (17) Last day to hand-serve motions in limine | 7/13/09 | ___/___/___ |
| 25 | (18) Pretrial Conference | 7/17/09 | ___/___/___ |
| 26 | (19) Trial to begin on: | 8/17/09 | ___/___/___ |

26 It is so ordered:

27 Dated: _____

28 The Honorable THELTON E. HENDERSON
 UNITED STATES DISTRICT JUDGE

PROOF OF SERVICE

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to this action. My business address is 44 Montgomery Street, Suite 2110, San Francisco, California 94104.

On June 25, 2008, I served the following document on the parties to this action, addressed as follows, in the manner described below:

**UPDATE TO THE JOINT CASE
MANAGEMENT CONFERENCE STATEMENT**

XX **MAIL**, being familiar with the practice of this office for the collection and the processing of correspondence for mailing with the United States Postal Service, and deposited in the United States Mail copies of the same to the business addresses set forth below, in a sealed envelope fully prepared.

Addressed to:

Areva D. Martin
Rosa Miu-Ching Kwong
Martin & Martin, LLP
3530 Wilshire Blvd. Suite 1650
Los Angeles, CA 90010-2313

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 25th day of June, 2008 at San Francisco, California.

/S/
Vanessa de Fábrega